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Attorneys for Plaintiff

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

SENORX, INC.,

Plaintiff,

vs.

COUDERT BROTHERS, LLP, and  
DOES 1 - 500,

Defendants.

CASE NO. C 07-01075 SC

**PLAINTIFF'S REPORT  
PURSUANT TO FEDERAL RULES  
OF CIVIL PROCEDURE 26(f)**

Judge: Honorable Samuel  
Conti  
Dept. Crtr. 1  
Date: June 8, 2007  
Time: 10:00 am

Action Filed: October 27, 2004  
Trial Date: Vacated

PLAINTIFF FILES THE FOLLOWING REPORT PURSUANT TO FEDERAL  
RULES OF CIVIL PROCEDURE 26(f)

Parties have met and conferred regarding the nature and basis of claims and defenses, the possibilities for a prompt settlement, discussion of timing of disclosures pursuant to Rule 26 (a) and a proposed discovery plan.

The court should be aware of the following Rule 26(f) issues:

1. Timing of Rule 26(a) disclosures

Parties have agreed that it is premature for disclosures to be made under Rule

26 (a). Plaintiff will be guided by the court as to the timing of exchange of witnesses, document description, damages and insurance pursuant to Rule 26(a). It is plaintiff's position that it is premature to exchange expert witness information and reports at this time.

2. Parameters of Discovery

Discovery has been conducted in this case and is almost concluded with only a few remaining depositions of percipient witnesses/ to be taken. Due to the stay on certain discovery in the State Court, it has never been established exactly how the \$3 million and / or \$5 million self insured retentions apply to the insurance coverage available to Coudert Brothers. Discovery is required on this issue, which could result in plaintiff limiting its claims to Coudert's insurance coverage. Discovery should be concluded within the next six months.

3. Electronically Stored Information

Plaintiff does not believe at present that there are issues related to disclosure or discovery of electronically stored information, however, this may be an issue as to internal Coudert data bases related to patent filing deadlines.

4. Claims of Privilege re Trial Preparation Material

Privilege has been claimed with respect to work performed for SenoRx by other counsel apart from Coudert Brothers LLP.

5. Limitations on Discovery

Plaintiff requests that the Court allow limited discovery regarding exactly how the \$3 million and / or \$5 million self insurance retentions apply to the insurance coverage available to Coudert Brothers. Plaintiff's motion to compel insurance information was stayed in the state court leaving unanswered questions regarding whether the insured retention is \$3 million or is \$5 million; will the insurance be paid up to the applicable policy limits after deducting the self insured retention or must the self insured retention have been paid before the remainder of the insurance policy

1 limits are paid; and what insurance policy limits apply to this lawsuit. If these issues  
2 are resolved, plaintiff may limit its claim against Coudert Brothers to the available  
3 insurance coverage. This case could then be removed from the United States  
4 Bankruptcy Court. The resources of the Bankruptcy Court and the United States  
5 District Court would no longer be burdened with this litigation.

6 Plaintiff requests the court limit discovery to documents and issues related to  
7 SenoRx' representation by Coudert and rule that all documents prepared by prior  
8 and subsequent law firms are privileged.

9 6. Additional Orders Requested

10 None at this time.

11 Dated: June 1, 2007

Respectfully submitted

12 LAW OFFICES OF MICHAEL J. PIUZE

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14 By: \_\_\_\_\_  
15 GERALDINE WEISS  
16 Attorney for Plaintiffs  
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